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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,628	06/28/2001	Susumu Nakagawa	450100-03297	6151

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EXAMINER	
HEWITT II, CALVIN L	

ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/894,628	NAKAGAWA, SUSUMU	
	Examiner	Art Unit	
	Calvin L. Hewitt II	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 September 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4 and 6-9* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4 and 6-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Status of Claims

1. Claims 1-4 and 6-9 have been examined.

Response to Arguments/Amendments

2. Applicant has amended the claims to recite contents stored on a content distribution server. Claim 1, for example, also recites disabling and deleting content after a period of time has elapsed. To one of ordinary skill, the operation of Applicant's system is not clear as the disabling and/or deletion of content from the server would prevent future access to the content by users and potentially result in a server void of content (i.e. if all the time for the deleting of content has been reached for each content stored on the server.) (In re *Zletz*, 13 USPQ2d 1320 (Fed. Cir. 1989)).

Regarding content usage rights information, Rabin et al. teach usage rights information such as a software licensing (e.g. for one year) and a maximum allowed interval between call-ups and software licensing wherein the maximum interval can be determined by any measure that is related to time or use of the device (figure 6; column 48, lines 1-9; column 59, lines 36-57). Therefore, to one of ordinary skill the prior art at least suggests expressing the

license period and/or the time between call-ups in terms of a start date and an end date.

The following assertion of fact has gone unchallenged and is now considered admitted prior art:

- to create and receive audit trial of actions performed in order to protect a business [content] owner against possible legal action

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant has amended claim 1 to recite contents stored on a content distribution server. Claim 1, however, also recites disabling and deleting content after a period of time has elapsed. To one of ordinary skill, the operation of Applicant's system is not clear as the disabling and/or deletion of content from the server would prevent future access to the content by users and potentially result in a server void of content (i.e. if all the time for the deleting of content has

been reached for each content stored on the server.) (In re *Zletz*, 13 USPQ2d 1320 (Fed. Cir. 1989)). Claims 7-9 recite similar language.

Claims 2-4 and 6 are also rejected as each depends from claim 1.

Claim 4 recites the limitations "loading period information", "the loading timing" and "said loading interval" in lines 1, 2 and 5, respectively. There is insufficient antecedent basis for these limitations in the claim. For purposes of examination the language is being interpreted as comparing content usage information and content rights information.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-4 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabin et al., U.S. Patent No. 6,697,948 in view of Venkatesan et al., U.S. Patent No. 6,801,999.

As per claims 1-4 and 6-9, Rabin et al. teach method and system for managing content comprising:

- Key code monitoring means for comparing usage rights (e.g. number of times or period of time content can be used) with usage status and determining whether content usage is within the range according to content usage information (column 5, lines 8-28 and 35-54; column 59, lines 38-56)
- disabling content if status code information exceeds usage rights (column 5, lines 44-48; column 19, lines 48-57; column 23, lines 15-25; column 59, lines 37-56)
- function for outputting usage status (column 18, lines 55-60)

Regarding deleting content, Rabin et al. disclose "punitive measures" (column 23, lines 16-25) as severe as disabling a computer. Rabin et al. also teach previously installed software with a status such as "removed" (figure 6; column 42, lines 13-23). To one ordinary skill, the prior art at least suggests removing the content from the user computer. Further, it is well known to those of ordinary skill in law to create and receive audit trial of actions performed in order to protect a business [content] owner against possible legal action. Rabin et al. teach distributing usage records to a remote center (column 18, lines 55-60). A well known method for exchanging data over the internet is via email.

According to the MPEP (section 2106, II, C) language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim

limitation. Hence, the outputting of invalidation reports does not distinguish the claims from the prior art, for if content is not disabled or deleted a report is not sent. However, Rabin et al. do not specifically recite generating a warning code. Venkatesan et al. teach generating a warning code to a user informing the user of actions required to be taken to ensure continued use of a product (column 34, lines 8-29). Therefore, it would have been obvious to one of ordinary skill to combine the teachings of Rabin et al. and Venkatesan et al. to remind the user to send a call-up message in order to avoid punitive measures such as disabling of a user computer ('948, column 23, lines 16-25).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

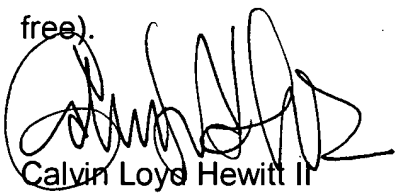
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Calvin Loyd Hewitt II whose telephone number is (571) 272-6709. The Examiner can normally be reached on Monday-Friday from 8:30 AM-5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer, can be reached at (571) 272-6779.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see **http://pair-direct.uspto.gov**. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Calvin Loyd Hewitt II
Primary Examiner

November 16, 2006